

**From:** "Kristen Tatlock" <ktatlock@vacul.org> on 10/10/2007 04:10:04 PM

**Subject:** Truth in Lending



October 11, 2007

Ms. Jennifer J. Johnson  
Secretary, Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington DC 20551

RE: Docket R-1286 Truth In Lending

Dear Ms. Johnson:

The Regulatory Response Committee of the Virginia Credit Union League appreciates the opportunity to comment on the Federal Reserve Board's proposed amendments to open-end credit rules under Regulation Z, Truth in Lending. As background, the Virginia Credit Union League represents 200 member credit unions, which serve 5.6 million consumers with lending and savings products.

The Board's proposed amendments to the staff commentary defining open-end lending would severely curtail the ability of credit unions to use open-end multi-featured loan products, products that credit unions have used successfully for many years. The disclosures credit unions currently provided to borrowers under these types of loans are sufficient and provide borrowers with information about the credit terms under the plan. These loan plans allow flexibility and convenience for member/borrowers, especially those who no longer reside in close proximity to their credit union. Eliminating these loan plans would create a disadvantage to some members as their loan proceeds could be delayed because of the additional paperwork that would be required as a result of the proposed changes. This would significantly increase the cost to credit unions in terms of system reprogramming, the purchase of forms, and even more staff training. CUNA Mutual Group, the main provider of loan documentation for many credit unions in the United States, estimates that the conversion in loan products will cost a mid-sized credit union a minimum of \$125,000 to \$200,000, with that cost increasing as a credit union's size increases. Ultimately, that cost will be borne by consumers. Additionally, if credit unions are forced by this proposal to revert to closed-end lending programs by the end of the implementation period, will they then have to revisit those programs when the Board reviews the provisions of closed-end lending as they have stated is their intention? Again, if this is the case, the costs to credit unions may be substantial.

Proposed changes to the Staff Commentary at § 226.4(a)(Comment 4) would require a credit card issuer to treat any transaction charge in its entirety, regardless of comparable fees charged for withdrawals from an asset account, as a finance charge. This change may simplify the determination of a finance charge as stated by the Board. However, in many cases, it would negate the ability of federal credit unions to charge cash withdrawal transaction fees initiated by credit cards comparable to those initiated by debit cards since they must comply with the statutory rate ceiling imposed under the Federal Credit Union Act (FCUA). The National Credit Union Administration (NCUA) has opined that it looks to Regulation Z for guidance on what constitutes a finance charge for purposes of FCUA's interest rate ceiling.<sup>[1]</sup> Consequently, under the proposed rule, very modest fees on low balance accounts held by federal credit unions would constitute a violation of the usury rate established in the FCUA. We believe it is grossly unfair to penalize the only group of lenders that are held to an interest rate cap of 18% by federal statute. We encourage the Board to seek other ways to simplify its regulations that avoid adversely impacting the only group of lenders that are already held to higher statutory lending standards than most – federal credit unions.

The proposed rules would extend the time period for a change in terms notice from 15 days to 45 days. Many financial institutions issue monthly periodic statements and include with those statements applicable change in terms notices. We urge the Board to consider requiring that the change in terms notice be provided to consumers 30 days prior to the effective date of the change.

We support the prominent disclosure of a penalty APR on credit card applications/solicitations and on account opening disclosures. However, because the penalty APR would be so prominently disclosed in those instances, we do not feel that the imposition of a penalty APR is a situation that should require a change in terms notice. We also believe that for those financial institutions that use credit risk to price credit products, an increase in the rate should not be considered a "penalty APR" and thus not require a change in terms notice.

We strongly support eliminating the requirement to disclose the "effective APR" on periodic statements. Because the effective APR incorporates certain fees and costs, its disclosure may be confusing to consumers as it may reflect a much higher APR than was originally disclosed and may vary greatly from month to month. We also support eliminating the requirement to disclose the daily periodic rate.

Including in the APR a fee for non-proprietary ATM charges may be problematic in that credit card issuers may not have all of the necessary information to calculate the required APR; non-proprietary fees and charges may not be separately identified by the imposing financial institution to the card-holding institution. Additionally, these fees are agreed to by the card user at the time of the transaction and are not a condition for the "loan advance." Therefore, we do not feel that these fees should be required to be included as part of the APR calculation for periodic statements.

As for the disclosures regarding describing the effects of making minimum payments required under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, we believe creditors should be permitted to describe this information as a “good faith estimate” or similar terminology since it is based on assumptions that may or may not apply in each specific situation. We also support the flexibility provided under the proposal that will allow creditors to bypass certain requirements if they provide actual repayment information on the periodic statement or through a toll-free number, instead of the hypothetical repayment information.

If the Board chooses to implement all of the changes as proposed, we strongly urge the Board to consider a 36-48 month implementation period in order to allow for the extensive data processing system reprogramming, hiring and retraining of staff, updating websites, and the development and implementation of new loan forms, disclosures, and periodic statements.

Thank you for the opportunity to comment on these proposed rules. Please do not hesitate to contact Kristen Tatlock at our League office should you need further clarification on our views.

Sincerely,

Richard Williams, Chairman  
Virginia Credit Union League Regulatory Response Committee  
CEO, Member One FCU

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[1] NCUA Legal Opinion Letter 00-1217, January 25, 2001. Also, see Legal Opinion Letter 91-0412, April 30, 1991.